

# planning supplement to background



Ontario

Ministry of  
Municipal Affairs  
and Housing



The Honourable Claude Bennett  
Minister

Ward Cornell  
Deputy Minister

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## A MESSAGE FROM THE MINISTER

It is a pleasure to introduce the first Planning Supplement to Background. It contains a broad overview of planning issues which should be of special interest to everyone involved or interested in municipal issues including municipal planners, clerks and others.

I am convinced that the "Planning Supplement" will be a valuable link between this ministry, its community planning wing and the municipalities and their consultants as they carry out their planning programs.

Claude F. Bennett  
Minister

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## PROVINCIAL POLICY STATEMENTS UNDER THE PLANNING ACT

"Why doesn't the province tell us where it stands?" and "I wish they'd put their position on paper so we'd know what it is!" are sentiments often heard around municipal council chambers when planning matters are being discussed. The new 1983 Planning Act contains a significant provision enabling the province to issue formal, cabinet approved policy statements on matters relating to municipal planning. While provincial policy statements as such are not a new phenomenon, their issuance in the future, under section 3 of the Act, heralds a brand new process and approach to planning. For the first time, consultation with municipalities, as well as other interested parties, is required prior to a policy statement being proclaimed.

Provincial policy statements will express the Province's intentions in carrying out certain broad resource management responsibilities and will provide a basis for municipalities to set out their own official plan policies.

The process leading to the issuance of policy statements under the new Act is as follows:

- o initiation by the Minister of Municipal Affairs and Housing (either alone or in conjunction with other ministers, depending on the nature of the proposed statement);
- o consultation with all those persons or bodies (i.e. municipal, provincial or federal) the Minister considers to have an interest in the matter. A copy of each proposed policy statement will be sent to everyone involved in the consultation for comment;
- o review of comments received by provincial officials and revision of the proposed statement, if necessary;
- o finalization and approval of the statement by the Minister(s) and the Cabinet;
- o publication of the approved policy statement in the Ontario Gazette. A copy will also be sent to all municipalities and to others affected by the policy;
- o implementation: each municipal council and others making planning decisions must "have regard to" policy statements. This does not mean mandatory compliance but it puts an onus on decision-makers to consider the stated provincial position and to be prepared to give reasons for not implementing it wholly or in part.



At present, several proposed statements are being considered by the provincial government. The first two statements deal with foodlands and mineral aggregates. The latter has recently been through extensive public consultation involving all Ontario municipalities, the Association of Municipalities of Ontario, and various interested associations and agencies.

Ministry of Natural Resources and Ministry of Municipal Affairs and Housing staffs have reviewed all responses received (including a substantive one from the Association of Municipalities of Ontario which provides an overall municipal perspective on the issue). As a result, revisions to the proposed statement have been made to reflect many of the concerns raised.

The foodlands statement is still being discussed between the Ministry of Municipal Affairs and Housing and the Ministry of Agriculture and Food prior to being circulated for comment.

More information on this issue may be obtained from the Local Planning Policy Branch of the Ministry of Municipal Affairs and Housing in Toronto, at 777 Bay Street, 13th Floor. Telephone: (416) 585-6225.

#### CURRENT PUBLICATIONS

The following documents have recently been published by the Community Planning Wing.

o Guidelines for Recreational Vehicle Campgrounds

These guidelines are designed to assist municipal councils and developers to plan for campground development. Types of campgrounds, suitable locations, municipal benefits and costs, official plan policies and regulatory controls are discussed.

Price: \$3.00

o Site Plan Control Guideline

When Section 40 of the new Planning Act goes into effect, (it has not yet been proclaimed) municipalities wishing to use site plan control will be required to show or describe the areas of site plan

control in their official plan. To assist municipalities in the task of preparing these official plan provisions, the ministry has prepared a guideline in its Planning Act series entitled "Guideline 9: Official Plans and the Use of Site Plan Control". This guideline elaborates on the details of section 40 and discusses alternative approaches. It is now at the printer and should be available very soon.

o Other Guidelines

Also due out at the same time are two further guidelines in the Planning Act series. Guideline 10 provides advice on the preparation, adoption, submission to the minister, and lodging of official plan documents. Guideline 11 discusses Committees of Adjustment and their functions, and provides advice on minor variances as well as legal non-conforming uses.

o The Re-Use of Public Buildings

This study describes the experiences of several municipalities with the adaptive re-use of public buildings. Based on the lessons learned from these re-use projects, the report presents key factors to be taken into account in considering re-use opportunities.

Price: \$4.00

o Land Use Planning for Energy Conservation

Examines the ways in which official plans, secondary plans, plans of subdivision and zoning by-laws can be used to bring about energy conservation at levels of community, neighbourhood, subdivision and lot.

Price: \$3.00

o Handbook for Energy Efficient Residential Subdivision Planning - Part 3: Design Implications

Examines the design implications of developing a low density residential subdivision that takes account of local sun and wind conditions. Among the aspects considered are the layout of the subdivision (street orientation, lot orientation and lot size), the buildings (their shape, type, orientation, window arrangements and roof), the landscaping and the yield (the number of lots and the leasable frontage).

Price: \$5.00



## LAND USE POLICY NEAR AIRPORTS

### UPDATE ON CONTOUR MAPS

In 1978, the Ministry of Housing published a policy designed to keep new housing and other noise-sensitive uses away from the noisiest areas around airports. Reference was made to Noise Exposure Forecast (NEF) contours for sixteen airports. The list was expanded to twenty airports in 1980 and Noise Exposure Projection (NEP) contours were introduced for two airports (NEF is short term - about five years - NEP covers a longer time period). Since that time, the following changes should be noted:

Airport	Latest Revision	Projection Date
<u>NEF</u>		
Ottawa	Dec., 1983	1988
Hamilton	July, 1981	1988
Maple	March, 1981	1987
North Bay	Dec., 1980	1985
Windsor	Feb., 1979	1985
<u>NEP</u>		
Toronto (Pearson)	May, 1984	1996
Oshawa	Dec., 1982	1991

In addition, the Oct., 1978 NEP contours for Windsor (1985) and the 1978 NEF contours for Oshawa should be deleted. A new set of NEP contours will be prepared for Windsor but in the interim, only the NEF contours need be consulted.

For Toronto's Pearson International Airport, reference should continue to be made to both the NEF and NEP contours.

## PLANNING AND THE LAW

This column contains summaries of municipal board and legal decisions of interest to planners and will appear as a regular feature.

### TV DISH ANTENNA NOT IN CONTRAVENTION OF WILMOT BY-LAW

When a resident of the Township of Wilmot erected a television dish antenna in his front yard, complaints reached the municipal office and the owner of the dish was told he had contravened the zoning by-law. He thereupon applied to the committee of adjustment for a minor variance, which was refused.

An appeal from the committee's decision resulted in a municipal board hearing. The board examined the zoning by-law and found that the front yard was defined by reference to the "building line". The board was quite unable to agree with the township that the antenna could be considered a "building" within the definition in the by-law. The township also tried to persuade the board that the word "accommodation" in the by-law included a dish antenna since it "accommodates" the property owners. This didn't wash either. Finally, reference was made to the prohibition of any obstruction in the area between the street and the building line. However, the board noted the lack of a definition for the word "obstruct" and referred to photographic evidence of trees and shrubs throughout the neighbourhood, which were obviously not considered obstructions.

On May 27, 1983, the board dismissed the appeal on the grounds that no variance was required to allow the television dish antenna to remain.

Source: Ontario Municipal Board Reports  
15 O.M.B.R. Part 4  
May, 1984  
Kuhr vs. Township of Wilmot

### LONDON VIDEO GAMES IN MILK STORES CONTRAVENE THE ZONING BY-LAW

The Becker Milk Co. installed video games in its eight convenience stores in London, Ontario and was told by the City to remove them because no licence had been obtained and because it was in violation of the zoning by-law. In response, Becker applied to the courts for an order declaring its rights under the licensing and zoning by-laws.



The court discussed the definition of a "place of amusement" in the licensing by-law and concluded that the existence of one or two video games in a convenience store does not turn that store into a "place of amusement". Hence, no licence was required.

The court proceeded to examine the definition of an "accessory use" in the zoning by-law and it agreed with the City that video games were not "a use customarily incidental, subordinate and exclusively devoted to the main use and carried on with such main use on the same lot". The court found that the video games were not exclusively devoted to the main use, although Becker's had argued that the games encourage or lure individuals into the store and stimulate sales. In fact, part of Becker's evidence stated that, on a per square foot basis, the amusement facilities produced three times the revenue of the general sales.

On January 25, 1984, the Ontario Supreme Court (High Court of Justice) found that the video operations required no licences but were in contravention of the zoning by-law.

Source: Municipal and Planning Law Reports  
25 M.P.L.R. July, 1984  
Becker Milk Co. vs London

#### PEOPLE

- Dave McHugh, Director of the Plans Administration Branch (Central and Southwest) has left the ministry to become Director of the Realty Services Branch of the Ministry of Government Services. Les Fincham has taken over Dave's area. At press time, Les's successor as Director (North and East) is not known.
- Peter Boles, formerly manager of the Program Operations Section, Community Renewal Branch, has succeeded Jack Brown as Director of that Branch, following Jack's retirement.
- Bill Thomson, whose name has been synonymous with planning in Waterloo Region since day one, is seeking a new challenge as Commissioner of Business Development for the City of Kitchener.

- Peter Atcheson, Oxford County's Commissioner of Planning, will be moving to Brantford in early November to succeed John Beavis as Director of Planning. John retired at the end of July. Don Radford has been promoted to Deputy Director.
- Ray Jenkins is now the Economic Growth Strategy Co-ordinator for the City of London. His previous position was Economic Development Commissioner for Sarnia-Lambton and before that he was Planning Director in Sarnia for many years.
- Michael Saunders is now head of the planning department in Whitchurch-Stouffville, succeeding Peer Frederikson. Michael was previously in consulting.
- Kim Warburton has left the ministry's Community Renewal Branch and is now a Senior Consultant with the Starr Group in Toronto.
- John Tennant, formerly with Newfoundland's Department of Municipal Affairs, has joined Vance Bedore's planning staff at the County of Renfrew.
- Bob Walters has joined the Campeau Corporation in Ottawa as a planner. As a student, he had worked for the ministry's C.P.A.B. office in Ottawa.

We would be interested to learn about other job changes around the province for insertion in our next issue. Drop us a line or give us a call.

The Planning Supplement will be published quarterly.

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